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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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OFFICE OF SECRETARY

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In the Matter of)

Implementation of the Local)

Competition Provisions in the)

the Telecommunications Act of 1996)

CC Docket No. 96-98

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

COMMENTS OF SPRINT CORPORATION
IN OPPOSITION TO THE PETITION OF THE PENNSYLVANIA PUBLIC UTILITY
COMMISSION FOR EXPEDITED WAIVER OF THE 10-DIGIT DIALING REQUIREMENT OF
47 C.F.R. SEC. 52.19 FOR 412 NPA OVERLAY AREA CODE RELIEF

In response to the Commission's Public Notice in the above-captioned matter, DA-405, released February 25, 1997, Sprint Corporation hereby submits the following comments in opposition to the petition of the Pennsylvania Public Utility Commission for an expedited waiver of the ten-digit dialing requirement of 47 C.F.R. Sec. 52.19 for 412 NPA overlay area code relief.

On February 18, 1997, the Pennsylvania Public Utility Commission ("PaPUC") filed a petition with the Commission requesting a waiver of 47 C.F.R. Section 52.19(c)(3)(i) of the Commission's rules. Specifically, the PaPUC is requesting that its 412 area code (which covers the Pittsburgh metropolitan area) be exempted from the Commission's mandate that, coincident with the institution of an area code overlay, mandatory ten-digit dialing be in place for every telephone call placed within and between all areas codes in the geographic area covered by the overlay. The PaPUC notes that it has formally challenged this rule in a petition for reconsideration filed in CC Docket No. 96-98 but that, to date, a ruling on its petition has not been forthcoming. Therefore, while it continues to maintain that the rule is unnecessarily restrictive, the PaPUC has filed the subject request for waiver in order that its immediate

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concerns regarding the 412 area code might be addressed¹. By way of explanation, the PaPUC notes that it has ordered the institution of a geographic overlay for the Pittsburgh metropolitan area which is to be accompanied by seven-digit dialing rather than ten-digit dialing. This overlay plan is scheduled for implementation on May 1, 1997.

For the reasons outlined below, Sprint Corporation urges the Commission to deny the PaPUC's request for waiver². Sprint asserts that, contrary to the PaPUC's claims, the area code overlay it is proposing will result in disparate treatment of competitors that will, in turn, result in the construction of competitive barriers in the Pittsburgh MSA.

Professing that the situation present in the 412 area code is unique, the PaPUC sets forth two arguments in support of its request for waiver of the Commission's ten-digit dialing requirement. First, it contends that the Commission's concern that an area code overlay may result in dialing disparities is, in this specific instance, unfounded. Acknowledging the Commission's fear that geographic overlays will cause reluctance among existing customers to switch carriers, PaPUC maintains that the presence of number portability in the Pittsburgh nullifies that concern. Specifically, since the 412 area code currently has interim number portability ("INP") and, by mid-1998 expects to have permanent number portability, the PaPUC argues that there will be no dialing disparities between the incumbent and its competitors. Consequently, the PaPUC concludes that the Commission's mandatory ten-digit dialing requirement is unnecessary.³

Second, the Commission relies upon a study offered by the Bell Atlantic Code Administrator which purportedly claims that, by the time the 412 area code is exhausted, new entrants and other competitors will possess one of every three usable NXXs in the area code.

¹ PaPUC at p. 5

² Sprint has consistently challenged the PaPUC's overlay order for the 412 area code. In proceedings held before the PaPUC on this subject, Sprint filed both comments and reply comments urging the PaPUC to adopt a geographic split rather than an overlay and, following the PaPUC's decision to implement the overlay, Sprint filed a motion for reconsideration. This matter is now on appeal before Commonwealth Court of Pennsylvania. Sprint is a party to that appeal.

³ Id at p. 6

The PaPUC claims that this fact alone negates the Commission's belief that, without ten-digit dialing, competitive carriers will have difficulty obtaining NXXs in the 412 area code and thus be forced to assign their customers numbers in the new area code.⁴

Neither of the PaPUC's arguments are persuasive. Number portability, while an important tool in leveling the competitive landscape, cannot alone negate the damage wrought by geographic overlays. To begin, interim number portability is, by all accounts, an inferior service. Exacerbating this situation is the fact that Bell Atlantic's customers will not be forced to use INP, but customers of the new entrant competitors will - an obvious and substantial advantage for Bell Atlantic. Glossing over this point, the PaPUC maintains that the dialing situation in the Pittsburgh area will only improve when, in mid-1998, permanent number portability is implemented. Sprint notes that permanent number portability is merely *scheduled* to arrive in mid-1998; given the very nature of this undertaking, implementation delays are bound to occur. In fact, on March 6, 1997, this Commission issued a news release stating that deployment for number portability will be extended to allow for further testing. In any event, even assuming the most optimistic implementation schedule, the fact remains that at least a year or more will have elapsed between the time the overlay is instituted and the arrival of permanent number portability. The harm suffered by new competitors in that interim period will not be reversed by the arrival of the new technology.

It is clear that number portability is not competitively neutral. Consequently, its implementation in the 412 area should not, contrary to the PaPUC's claims, assuage the Commission's concerns about the dialing disparities which are attendant with geographic overlays.

The PaPUC's second argument in support of its waiver request is equally flawed. Sprint does not find Bell Atlantic's NXX code forecast as encouraging as does the PaPUC. While not conceding the validity of Bell Atlantic's numbers, even assuming for purposes of

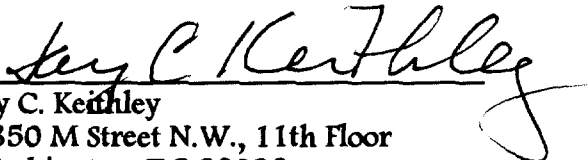
⁴ Id. at p.7

argument that the figures are accurate, the forecast does not provide adequate support for waiving the Commission's rules in this instance. Allowing Bell Atlantic to control 51% or more of the usable NXXs cannot be considered anything less but advantage handed to one carrier over others. Moreover, based on the lopsided assignment of the NXXs in the 412 area, it is obvious that new entrants will be assigned a disproportionate number of the NXXs in the new area code which will require consumers who are considering changing from the incumbent to a new entrant carrier to also change their area code - another advantage for the RBOC. Competition cannot thrive in such an biased atmosphere.

The plan advocated by the PaPUC for the 412 area codes reveals the problems inherent in any overlay scheme not containing the safeguards provided for by the Commission in Section 52.19(c)(3)(i). Overlays without ten-digit dialing advantage one carrier, the incumbent, over others and disadvantage customers who either switch from the incumbent to a competitive carrier or who otherwise reside in the new NPA. For these reasons, Sprint encourages the Commission to deny the waiver sought here by the PaPUC. The only way in which a geographic overlay can be considered an acceptable solution to area code exhaust is if the end result is the equitable treatment of all customers and service providers. Parity cannot and will not be achieved through the institution of the PaPUC's overlay plan. To ensure that dialing parity, as provided for in Section 251(b)(3) of the Telecommunications Act of 1996, is available in the Pittsburgh MSA, universal ten-digit dialing for all 412 area customers must be mandated.

The Commission should, therefore reject the PaPUC's request for a waiver of the ten-digit dialing requirement of 47 C.F.R. Section 52.19 for the 412 area code.

SPRINT CORPORATION

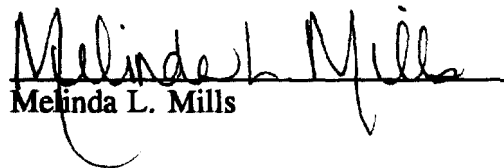

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March 7, 1997

CERTIFICATE OF SERVICE

I, Melinda L. Mills, hereby certify that I have on this 7th day of March, 1997, served via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing "Comments of Sprint Corporation in Opposition to the Petition of the Pennsylvania Public Utility Commission for Expedited Waiver of the 10-Digit Dialing Requirement of 47 C.F.R. Section 52.19 for 412 NPA overlay area code relief" in the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, filed this date with the Acting Secretary, Federal Communications Commission, to the persons on the attached service list.


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